

# 16 FOOD SERVICES AND CONCESSIONS

## 16.1 Definition

Food Service is defined as restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with any of the foregoing. It also includes vending machines dispensing foods when operated independently or in conjunction with facilities in or under the control of a governmental agency.

## 16.2 Methods

Food Services or other concessions do not require competitive solicitations except as noted below and may be acquired by the agency as it determines to be in its best interest. Agencies are encouraged to use competitive solicitations whenever possible.

### 16.2.1 Food Services

For acquisition of food services, *Idaho Codes 67-6902, 67-6903, 67-6904* states that in public buildings, agencies must attempt to notify nonprofit organizations and seek proposals if more than one provider responds for food services. Proposals from the Idaho Commission for the Blind and Visually Impaired have priority over all other proposals. Nonprofit organizations for the handicapped have second priority over other proposals. If no nonprofit organization is willing or able to provide satisfactory food services, the agency may accept proposals from for-profit vendors.

### 16.2.2 Exemptions

*Idaho Code 67-6902* exempts public schools or buildings or institutions of higher education or vocational-technical training, buildings of the Department of Health and Welfare, or facilities of the State Board of Correction from the above requirements.

## 16.3 Idaho Statutes Regarding Food Services

**67-6902. DEFINITIONS.** As used in this chapter:

(1) "Public buildings" means the state capitol, all county courthouses, and all city halls and buildings used primarily as governmental offices of the state or any county or city. It does not include public schools or buildings or institutions of higher education or vocational-technical training, buildings of the department of health and welfare, or facilities of the state board of correction.

(2) "Food service facilities" include restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with any of the foregoing, and also includes vending machines dispensing foods when operated independently or in conjunction with such facilities.

(3) "Handicapped" means:

(a) A person who has a physical or mental impairment which substantially limits one or more major life activities (e.g. communication, ambulation, self-care, socialization, education, vocational training, transportation or employment);

(b) A person who has a record of such an impairment and the impairment is expected to continue indefinitely;

(c) A person who is regarded or treated by others as having such an impairment;

(d) Persons including, but not limited to, persons who are blind, deaf, epileptic, autistic, mentally retarded or mentally ill or who have orthopedic disorders or cerebral palsy.

(4) "Nonprofit organization representing the handicapped" means tax exempt organizations as defined under section 501(c)(3) of the internal revenue code and includes the Idaho commission for the blind and visually impaired.

**67-6903. FOOD SERVICE FACILITIES IN PUBLIC BUILDINGS.** Any governmental agency which proposes to allow, to operate or to continue a food service facility in a public building shall first attempt, in good faith, to notify nonprofit organizations representing handicapped persons of the opportunity to operate a food service. If more than one (1) organization responds, the governmental agency shall establish reasonable criteria and shall select on the basis of that criteria from the proposals submitted. Criteria adopted by a governmental agency pursuant to this section, and used as a basis for selection among proposals submitted, shall include the requirement that proposals submitted by the Idaho commission for the blind and visually impaired shall have priority over all other proposals submitted. Proposals submitted by nonprofit organizations representing the handicapped, other than the Idaho commission for the blind and visually impaired, shall receive priority over all other proposals except proposals submitted by the Idaho commission for the blind and visually impaired. A food service facility shall be operated without payment of rent. The governmental agency shall not offer or grant any other party a contract or concession to operate such food service facility unless the governmental agency determines in good faith that no nonprofit organization representing handicapped persons is willing or able to provide satisfactory food service.

**67-6904. OTHER FOOD SERVICE.** Buildings or institutions of the department of health and welfare, not defined as public buildings for purposes of this chapter, shall nevertheless be subject to the provisions of section 67-6903, Idaho Code, for the purposes of providing services of vending machines dispensing food.

## **16.4 Division of Purchasing Rules Regarding Concession Services**

### **IDAPA 38.05.01**

#### **011. DEFINITIONS.**

**11. Concession Services.** The granting by the purchasing activity of a right, franchise, authority, property interest or option to a contractor, regardless of whether an expenditure of state or other funds occurs.

#### **032. ACQUISITION OF CONCESSION SERVICES.**

If there is no expenditure of state funds, the acquisition of concession services, including but not limited to, exclusive- rights contracts, franchises, vending services, options, pouring contracts, service contracts, advertising contracts, broadcast rights to sporting events or other similar types of goods, may be conducted by each purchasing activity as it determines to be in its best interest. While there is no statutory requirement for competitive bidding for concession services or the applicability of purchasing statutes to the award of contracts for concession services when no expenditure of state funds is involved, the purchasing activity is encouraged to utilize a competitive process if determined to be in its best interest.